

RESPONSE

The undersigned submits the following in reference to the specific concerns that the examiner raised in the Office Action Summary dated August 23, 2005.

CLAIM REJECTION UNDER 35 USC 112

The examiner has rejected Claims 1 through 8, under 35 USC 112, second paragraph, as failing to point out the invention that is being claimed. The undersigned has amended the claims to distinctly point out the elements of the invention and to address the specific concerns of the examiner.

REJECTIONS UNDER 35 USC § 103

The examiner has rejected this application as unpatentable over Anderson 5,005,667 in view of Seals 4,924,970. Anderson discloses a cabinet step assembly, which is attached to the cabinet. Seals teaches a cabinet mounted step assembly.

The device in this case, unlike Anderson, is completely portable and is designed to be moved from place to place. Anderson does not allow this portability and is limited to a use under a cabinet structure. The applicant concedes that the structures in both Anderson and the current application are similar and operate to address the same need but the structure in this case is sufficiently different.

The undersigned would request that the examiner consider the remarks of the undersigned with the amendments to the claims and put this application in line for allowance.

Lawrence J. Gibney, Jr.
L. Jack Gibney, Esquire
Attorney for Applicant
Registration No.: 49062
4465 Baymeadows Road, Suite 2
Jacksonville, Florida 32217
(904) 443-7770
jack@gibneylaw.com

CERTIFICATE OF MAILING

I hereby certify that this document for Application 10/796,919 is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated below and is addressed to Darla Lynn, P.O. Box 421, Georgetown, California 95634 and to: Commissioner for Patents, Washington, DC 20231.

By: *Lawrence J. Gibney, Jr.*
Print Name: Lawrence J. Gibney, Jr.
Date: *9/2/05*